

RECEIVED
CENTRAL FAX CENTER

APR 27 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Kipp et al.)
)
Serial No.:	09/874,499) Art Unit: 1615
)
Filed:	June 5, 2001) Examiner: Simon J. Oh
)
Title:	Microprecipitation Method for Preparing Submicron Suspensions) Confirmation No.: 6158
)
Docket No.:	CPIFT-5726)

**RULE 1.116 RESPONSE TO FINAL OFFICE ACTION
AND
SUBMISSION OF TERMINAL DISCLAIMER**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This submission of a corrected Terminal Disclaimer, in order to comply with the requirement of form expressly set forth in the previous Office Action, is filed in response to the Final Office Action mailed April 12, 2005.

In the previous Office Action (December 8, 2004), the Examiner rejected claims 1-15 and 18-21 under the judicially created doctrine of Double Patenting as being unpatentable over Claims 1-108 of U.S. Patent No. 6,607,784; Claims 1-97 of U.S. Patent No. 6,884,436; Claims 1-99 of U.S. Patent No. 6,869,617; and provisionally rejected claims 1-15 and 18-21 under the Double Patenting doctrine as being unpatentable over Claims 1, 3-73, 75-77 and 110-118 of copending Application No. 09/953,979; and Claims 1-46 and 49-64 of copending Application No. 10/035,821.

In response to the previous Office Action, Applicants timely filed a Terminal Disclaimer (January 20, 2005), disclaiming the terminal portion of the instant application that would extend

Application No. 09/874,499
Response to Final Office Action
Page 2

beyond the termination of the above-referenced patent and applications. As pointed out in the Final Office Action, however, the Terminal Disclaimer was defective in that it did not contain a clause stating the percentage of the petitioner's ownership right, title and interest of the instant application.

Applicants herewith submit a corrected Terminal Disclaimer now containing the clause of ownership of the instant application. The Terminal Disclaimer fee under 37 CFR 1.20(d) had been submitted previously with the January 20, 2005 response, however, the Commissioner is authorized to charge one hundred thirty dollars (\$130.00), and any additional fees, to deposit account 02-1440. Two copies of this letter are enclosed for accounting purposes.

The submission of the Terminal Disclaimer is believed to moot the Examiner's rejection of the claims. Applicants therefore respectfully request reconsideration and allowance of the pending claims in the present application.

Respectfully submitted,



Michael C. Mayo
Registration No. 38,545
Attorney for Applicants

April 27, 2005

BAXTER INTERNATIONAL INC.
One Baxter Parkway, DF3-2E
Deerfield, IL 60015
847-948-2136
slg/

C O P Y

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Kipp et al.)
)
Serial No.:	09/874,499) Art Unit: 1615
)
Filed:	June 5, 2001) Examiner: Simon J. Oh
)
Title:	Microprecipitation Method for Preparing Submicron Suspensions) Confirmation No.: 6158
)
Docket No.:	CPIFT-5726)

**RULE 1.116 RESPONSE TO FINAL OFFICE ACTION
AND
SUBMISSION OF TERMINAL DISCLAIMER**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This submission of a corrected Terminal Disclaimer, in order to comply with the requirement of form expressly set forth in the previous Office Action, is filed in response to the Final Office Action mailed April 12, 2005.

In the previous Office Action (December 8, 2004), the Examiner rejected claims 1–15 and 18–21 under the judicially created doctrine of Double Patenting as being unpatentable over Claims 1–108 of U.S. Patent No. 6,607,784; Claims 1–97 of U.S. Patent No. 6,884,436; Claims 1–99 of U.S. Patent No. 6,869,617; and provisionally rejected claims 1–15 and 18–21 under the Double Patenting doctrine as being unpatentable over Claims 1, 3–73, 75–77 and 110–118 of copending Application No. 09/953,979; and Claims 1–46 and 49–64 of copending Application No. 10/035,821.

In response to the previous Office Action, Applicants timely filed a Terminal Disclaimer (January 20, 2005), disclaiming the terminal portion of the instant application that would extend

Application No. 09/874,499
Response to Final Office Action
Page 2

beyond the termination of the above-referenced patent and applications. As pointed out in the Final Office Action, however, the Terminal Disclaimer was defective in that it did not contain a clause stating the percentage of the petitioner's ownership right, title and interest of the instant application.

Applicants herewith submit a corrected Terminal Disclaimer now containing the clause of ownership of the instant application. The Terminal Disclaimer fee under 37 CFR 1.20(d) had been submitted previously with the January 20, 2005 response, however, the Commissioner is authorized to charge one hundred thirty dollars (\$130.00), and any additional fees, to deposit account 02-1440. Two copies of this letter are enclosed for accounting purposes.

The submission of the Terminal Disclaimer is believed to moot the Examiner's rejection of the claims. Applicants therefore respectfully request reconsideration and allowance of the pending claims in the present application.

Respectfully submitted,



Michael C. Mayo
Registration No. 38,545
Attorney for Applicants

April 27, 2005

BAXTER INTERNATIONAL INC.
One Baxter Parkway, DF3-2E
Deerfield, IL 60015
847-948-2136
slg/